

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

PCT HOSPITALITY, INC., §
§
Plaintiff §
§
v. § CIVIL ACTION NO. 3:22-CV-1866
§
MT. HAWLEY INSURANCE COMPANY §
§
Defendant. §
§

DEFENDANT'S NOTICE OF REMOVAL

Defendant Mt. Hawley Insurance Company (“Mt. Hawley”) files this Notice of Removal of this action from the County Court at Law No. 1 of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division, the district and division in which the County Court at Law No. 1 is located. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, Mt. Hawley respectfully shows this Court as follows:

1. Plaintiff PCT Hospitality, Inc. (“Plaintiff”) commenced an action against Mt. Hawley in the County Court at Law No. 1 of Dallas County, Texas, entitled *PCT Hospitality, Inc. v. Mt. Hawley Insurance Company*, pending as Case No. CC-22-03773-A (the “State Court Case”).
2. On July 25, 2022, Mt. Hawley was served with Plaintiff’s Original Petition (“Petition”) in the State Court Case. *See Exhibit C-6* (Service correspondence). As such, removal is timely because thirty (30) days have not elapsed since Mt. Hawley first received the Petition, as required by 28 U.S.C. § 1446(b).

3. A copy of this Notice of Removal will be filed with the State of Texas County Court at Law No. 1 in Dallas County, and a copy of this Notice of Removal will also be served on Plaintiff. Mt. Hawley is, contemporaneously with the filing of this Notice, giving written notice of filing of this Notice of Removal with the clerk of the County Court at Law No. 1 of Dallas County, Texas.

4. An index of all documents, a copy of the state docket sheet and copies of each document filed in the state court action are attached hereto as **Exhibits A-F**.

5. Plaintiff has requested trial by jury in the State Court Case.

6. Mt. Hawley has filed contemporaneously a civil cover sheet and a supplementary civil cover sheet. There are no “related cases,” as defined by LR 3.3(b)(3) or (b)(4).

Ground for Removal: Diversity

7. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332, in that this is a civil action where the matter in controversy exceeds \$75,000 and is between citizens of different States.

A. The amount in controversy exceeds the federal minimum jurisdictional requirements.

8. Plaintiff’s Petition in the State Court Case contends that its property sustained damage covered under a policy of property insurance issued by Mt. Hawley, Policy No. MCP0167017 (the “Policy”). *See Exhibit C-1* at ¶¶ 10-12. Plaintiff’s Petition further alleges that Mt. Hawley breached the Policy by “improperly” paying Plaintiff’s claim. *See id.* at ¶¶ 15, 29-30. In addition, Plaintiff’s Petition alleges the amount of its claimed loss, and the amount it seeks to recover from Mt. Hawley, is \$1,000,000 “or less.” *See id.* at ¶ 7. On September 2,

2021, Plaintiff demanded \$755,406.11 plus \$10,000 in attorney's fees. *See* September 2, 2021, correspondence, a true and correct copy of which is attached hereto as **Exhibit E**.¹

9. For all of these reasons, the amount in dispute exceeds \$75,000, exclusive of interest and costs.

B. There is complete diversity between Plaintiff and Mt. Hawley.

10. Plaintiff was at the time of the filing of this action, has been at all times since, and still is a Texas corporation with its principal place of business in Dallas, Texas. As such, Plaintiff is a citizen of the State of Texas for purposes of determining diversity jurisdiction, and not a citizen of the State of Illinois.

11. Defendant Mt. Hawley is a corporation organized under the laws of Illinois, with its principal place of business in Illinois. Accordingly, Mt. Hawley is a citizen of the State of Illinois for purposes of determining diversity jurisdiction, and not a citizen of the State of Texas.

12. Complete diversity exists in this case and removal is proper because Plaintiff is a citizen of Texas, and Mt. Hawley is a citizen of Illinois.

WHEREFORE, Defendant Mt. Hawley Insurance Company prays that the above-described action now pending in the County Court at Law No. 1 of Dallas County, Texas, be removed to this Court.

¹ It should be noted that Plaintiff demanded appraisal of this claim, to which Mt. Hawley agreed to participate. The appraisal is still ongoing and was so at the time Plaintiff filed its Original Petition.

Respectfully submitted,

/s/ Greg K. Winslett

GREG K. WINSLETT

State Bar No. 21781900

MICHAEL D. FEILER

State Bar No. 24055475

**QUILLING, SELANDER, LOWNDS,
WINSLETT & MOSER, P.C.**

2001 Bryan Street, Suite 1800

Dallas, Texas 75201

(214) 871-2100

(214) 871-2111 (Fax)

gwinslett@qslwm.com

mfeiler@qslwm.com

**ATTORNEYS FOR MT. HAWLEY
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument is being served upon counsel for Plaintiff, via certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure, on this 23rd day of August 2022, as follows:

Eric B. Dick
Dick Law Firm, PLLC
3701 Brookwoods Dr.
Houston, TX 77092
Telephone: (832) 207-2007
eric@dicklawfirm.com

Attorneys for Plaintiff

/s/ Greg K. Winslett

Greg K. Winslett